

APPENDIX

Rules of Procedure

(Title 29, C. F. R., Ch. VI, Part 802, added by 7 F. R. 600, and revised by 8 F. R. 16712, as amended.)

(Source) C. C. H. 1945 Edition "Federal Administrative Procedure" Volume IV.

Jurisdiction and procedure of Regional War Labor Boards.

Section 802.54. (A) The handling of preliminary inquiries about jurisdiction. (1) An employer or a union (or any employee, or a group of employees not represented by a union) directly concerned in a proposed wage and salary adjustment, may, jointly or separately, ask the nearest designated officer of the Wage and Hour and Public Contracts Division of the United States Department of Labor in the region (hereinafter referred to as the Wage and Hour Office) for a ruling (as) to whether the proposed adjustment may be made without Board approval. The request for a ruling, if filed by an employer alone, shall state whether there is a duly recognized or certified collective bargaining agent for any or all of the affected employees which has not joined with the employer in the request for the ruling, and if so, the name and address of such collective bargaining agent. If filed by a union, or on behalf of any or all of the employees, without joinder by the employer, the request for ruling shall state the name and address of the employer. If the request for ruling affects any employees represented by a duly recognized or certified collective bargaining agent and the employer or the collective bargaining agent has not joined in the request, a copy of the request for a ruling and the ruling shall, after ruling has been made, be sent to the employer or the collective bargaining agent, whichever has not joined in the request, and to the appropriate regional attorney by the Wage and Hour office.

(2) If said ruling is that the proposed wage or salary adjustment may be made without approval of the Board:

(i) The ruling shall be deemed as authoritative, and shall remain in effect unless revised as provided below.

(ii) If, on receipt of the ruling of the Wage and Hour office, it is reversed by the Regional Attorney (after consultation, where necessary, with the Regional Wage Stabilization Director) the Wage and Hour office shall be notified promptly, and shall immediately notify the person or persons who made the inquiry that the adjustment requires approval. If in the meantime the employer has made an adjustment, relying upon the ruling by the Wage and Hour Office, that it would not need approval:

(a) the adjustment may be continued in effect for a period of 10 days following the notification by the Wage and Hour Office, within which period the employer may file with the Wage and Hour Office (jointly, with a duly recognized collective bargaining agency, or by himself, as subsequently provided), an application for approval of the adjustment and

(b) if such an application is so filed, the adjustment may be further continued in effect until and unless it is finally disapproved. Such disapproval shall take effect only from the date of the issuance of the order of disapproval.

(iii) If the Wage and Hour Office to which an inquiry has been addressed, rules that the proposed adjustment cannot properly be made without approval, the ruling shall be deemed to be authoritative. The person or persons who made the inquiry may seek from the Regional Attorney, by written petition, filed within 10 days after the ruling of the Wage and Hour Office, a reversal of the ruling. The Regional Attorney's ruling (after consultation, where necessary, with the Regional Wage Stabilization Director) on the question so submitted shall be transmitted to the applicant and to the other parties, if any, required by subparagraph (1), through the Wage and Hour Office.

(B) The filing of applications for approval of wage or salary adjustments.

(1) Each application for approval of proposed voluntary wage and salary adjustments shall be filed with the nearest Wage and Hour Office in the region. All applications shall

be made upon appropriate forms prepared by the National War Labor Board.

(2) Such applications may be of two kinds. The first kind, in which approval is sought of an adjustment agreed upon by the parties, may be signed by either party (or jointly by any or all parties to the contract). The application shall state whether or not the parties to the contract have signed the application, and shall state the names and addresses of each party not signing the application. If there be any such party who has not signed, the Wage and Hour Office at which the application was filed, shall as agent of the Board, before acting on the application, send said party a notice of the application. The notice shall request the party to state whether he contests the fact of the contract having been made. If, within 7 days of the sending of the notice, he has not filed a statement contesting such fact, or if he files a statement admitting it, the application will then be acted upon. If he contests the fact of the contract having been made, the matter will be determined to be a dispute case and the application Form 10 will be returned to the party which filed the application, and a copy of the letter returning the application will be sent to the contesting party, unless (i) the contract was in writing, (ii) the writing or a certified or otherwise authenticated copy thereof has been produced and (iii) the Wage and Hour Office is satisfied that no substantial question exists as to the party being a party thereto. Where the Wage and Hour Office is so satisfied, it shall rule accordingly and proceed with the handling of the application. The ruling may be reviewed (on petition of the protesting party) by the Regional War Labor Board under subparagraph (7) of this paragraph. His ruling shall be final.

(3) The second kind of application, in which the employer on his own initiative wishes to make a wage or salary adjustment, shall be signed either (i) jointly by the employer and a duly recognized collective bargaining agency for any or all of the employees who are to be affected by the proposed wage or salary adjustment or (ii) by the employer alone.

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(b) Directive orders in dispute cases.—(1) Regional War Labor Boards are authorized to issue directive orders in dispute cases in conformity with the policy of the National War Labor Board. Each such directive order shall bear the date of its actual issue, and shall be issued to the parties when made. The issuance of any provision of a directive order, however, which relates to a wage or salary adjustment, may be stayed if two or more public members of the Regional Board dissent from the provision and request that its issuance be stayed. In such event a copy of the directive order and the request for the stay, together with a statement of the reasons for such request, shall be immediately transmitted to the National War Labor Board. The provision so sought to be stayed shall not be issued to the parties until the expiration of ten days after receipt in Washington of the request for the stay, unless (i) the issuance of such provision is earlier approved by the National War Labor Board or (ii) within such ten-day period the National War Labor Board sets the case down for review. In the latter event, the Executive Assistant to the National War Labor Board shall communicate the Board's action to the Regional Board, and the stay shall continue in effect until the case is finally disposed of.

(b) (2) If after the issuance of a directive order no timely petition for review is filed within the period provided in paragraph (c) below, and if the National War Labor Board within such a period does not review the order on its own motion, the order shall on the day following the last day for filing such a petition stand confirmed as the order of the National War Labor Board and shall immediately be effective according to its terms: Provided, That the National War Labor Board may at any time prior to the expiration of the time for the filing of a petition for review make such an order, or any part thereof, immediately effective pending any further proceedings. If a timely petition for review of a directive order of a Regional Board

is filed by a party in accordance with the provisions of paragraph (c) below, or if the National War Labor Board reviews such an order on its own motion, the entire order shall be suspended, unless and until the National War Labor Board directs, or has directed, otherwise, or unless the parties otherwise agree. However, the date of expiration of the escape period fixed in a directive order of a Regional Board granting a maintenance of membership provision shall not be affected by the filing of a petition for review of this or any other provision of the order. If only a part of the order is sought to be reviewed, any party may petition the Regional Board to make the rest of the order immediately effective according to its terms. The parties may in any case mutually agree upon the date when the order, or any part thereof, shall take effect, except that where a wage or salary adjustment is made subject to the approval of the Economic Stabilization Director, the parties may not by their agreement make such adjustment effective prior to the date of such approval. Notwithstanding any other provisions of this paragraph, that part of the directive order of a Regional Board which continues in effect the terms and conditions of a prior contract which has expired or been otherwise terminated, shall not be suspended or stayed by the filing of a petition for review, but shall be effective according to its terms, unless and until the National Board, upon consideration of a petition for review, otherwise directs.

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